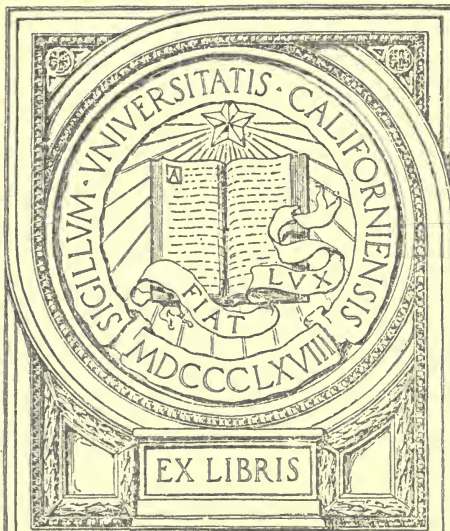


UTAH TERRITORY - Memorials

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CONSTITUTION OF THE STATE OF DESERET.

MEMORIALS

OF THE

LEGISLATURE AND CONSTITUTIONAL CONVENTION OF
UTAH TERRITORY,

PRAYING

The admission of said Territory into the Union as the State of Deseret.

JUNE 9, 1862.—Referred to the Committee on the Territories, and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

GENTLEMEN: We, your memorialists, the members of the general assembly of the State of Deseret, respectfully state that our peculiarly isolated position, the well-proven inadequacy of a territorial organization to meet the wants of a rapidly increasing population, now numbering from eighty to a hundred thousand, a disposition to lessen governmental expenditures when they are, of necessity, so great, and an earnest desire to enjoy those inherent, inalienable, and constitutional rights guaranteed to every American citizen, have induced the citizens of Utah to unanimously and constitutionally organize a State government, preparatory to their admission into the Union as the "State of Deseret;" wherefore your memorialists most respectfully solicit your honorable body to favorably consider this our petition, and, at as early a day during your present session as other important duties will permit, take action admitting the State of Deseret "into the Union on an equal footing with the original States in all respects whatever."

Adopted by the general assembly of the State of Deseret, on the 17th day of April, A. D. 1862.

JOHN TAYLOR,

President of the Senate.

A. P. ROCKWOOD,

Speaker of the House of Representatives.

T. W. ELLERBECK,

Secretary of the Senate.

WILLIAM CLAYTON,

Chief Clerk of the House of Representatives.

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MEMORIAL.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the citizens of the United States in the Territory of Utah, by their delegates in convention now assembled, respectfully present this their memorial, humbly praying for admission into the federal Union as a "free and sovereign State," under the name and style of the State of Deseret, with the constitution herewith presented.

They do thus the more boldly urge their admission into the family of States, knowing that their claims are based upon their constitutional rights, upon constitutional law, and upon their native and inherent franchise as American citizens.

The people of the United States, for themselves and their posterity, established a Constitution to secure alike to one and all the blessings flowing therefrom. Wherever American citizens are to be found on American soil, or that portion of it over which the jurisdiction of the Constitution is extended—however few their number—there and to them is the right given, and to all their future generations bequeathed, to say who shall govern them, and to have a voice in the enactment of the laws by which they shall be governed. If this franchise—great, glorious, and sacred as it is—be worth anything, it is a franchise that the dividing lines of States or Territories cannot annul.

Your memorialists maintain that self-government is an inherent right of every American citizen; nay, that it is the birthright of every man, bequeathed to him by the Almighty Dispenser of all good gifts. The citizens of Utah enjoy not this right. The executive and judicial departments of the Territory are made up of strangers alike to her customs, her history, her wants, and her interests.

It has been contended in favor of territorial governments that the pioneers to new territory, in consideration of their numerous privations and the wants and expenses incident to the formation of new settlements, require and are entitled to the fostering care and charitable aid of the parent government. But shall it be held as sound doctrine by American statesmen and jurists that such care and aid are to be held as an equivalent for the liberty of the citizen? or that the holy birthright as freemen born for self-government should be exchanged for a mess of pottage? That such care and aid, however, are not required by the citizens of Utah, your memorialists would respectfully call your attention. No trouble or expense is considered burdensome when all is done by the "consent of the governed."

The isolated condition of Utah, far removed from the national capital, and the growing importance of her position as the joining link between the Atlantic and Pacific States, should give her, apart from other considerations, a strong claim to be at once introduced and numbered among the family of States.

The number of the population could not be claimed as a barrier to the admission of Deseret. Her population is ample; but were it not half its present number, still that cannot be an impediment. "The

Constitution," said the present honorable Secretary of State, "does not prescribe 93,700, or any other number of people, as necessary to constitute a State." "The Constitution," he says, in the same speech, (April 9, 1856,) "prescribes only two qualifications for new States, namely: a substantial civil community and a republican government." Both of these are claimed by your memorialists for Deseret.

Why should Deseret be denied the privileges granted to other States which have been admitted? Call to mind, gentlemen, what Utah has done towards the national welfare. Has she lain in sloth and idleness since 1847? or have political wranglings taken the place of industry and the pursuit of the peaceful arts? Let her fruitful fields; her public and her private buildings; her settlements scattered over five hundred miles from north to south, thriving with numerous populations and musical with the hum of industry; the telegraph and the overland mail; let these testify, in contrast to the bleak, barren deserts found by her pioneers, then the resorts of wild beasts and wilder Indians.

The constitution herewith presented being genuinely republican; Congress having no power from the Constitution to deny a proper application for admission into the Union, but the full power to admit, and indeed the duty imposed upon them to guarantee unto all the States a republican form of government; the universal call from the citizens being in favor of a State government; the right of representation with taxation being undeniable, and knowing by experience their ability to sustain themselves in a State organization, your memorialists humbly ask, and respectfully claim as their unquestionable right, to be admitted into the federal Union or family of States, under the title of the State of Deseret; feeling assured that when they ask for bread from the granaries of freedom you will not give them a stone quarried from the crumbling ruins of colonial despotism.

The bearers of this memorial and of the constitution and proceedings of the convention, with the documents pertaining to the State organization and proceedings of the general assembly, are the senators and the representative who will be elected in accordance with the constitution adopted by the convention; and they are hereby authorized to make the necessary application to each house of Congress for the admission of this State into the Union, and we bespeak for them the candid hearing and consideration by your honorable body of the aforementioned and such other matters as they may present before you pertaining to the interest and well-being of this rising State; trusting that you will accord unto them the seats in the national councils of our common country to which the partiality of a loyal people has unanimously elected them.

DANIEL U. WELLS,
President of Convention.

Adopted in convention in Great Salt Lake City, Territory of Utah,
January 23, A. D. 1862.

WILLIAM CLAYTON,
Secretary of Convention.

CONSTITUTION OF THE STATE OF DESERET.

We, the people, grateful to the Supreme Being for the enjoyment of life and mercy, and feeling our dependence on him for a continuation of those blessings, do ordain and establish the following constitution:

ARTICLE I.

Boundary and name.

All that part of the territory of the United States bounded as follows: Beginning on the 37th parallel of north latitude where it intersects the 32d meridian of longitude west from Washington, or the 109th meridian of longitude west from Greenwich; thence west on said parallel to the 39th meridian of longitude west from Washington, or the 116th meridian of longitude west from Greenwich; thence north on said meridian to its intersection with the 42d parallel of north latitude; thence east on said parallel to the 32d meridian of longitude west from Washington, or the 109th meridian of longitude west from Greenwich; thence south on said meridian to the place of beginning, is hereby formed into a free and sovereign State, and named Deseret.

ARTICLE II.

Declaration of rights.

SECTION 1. In republican governments all men should possess their natural rights, among which are those of enjoying and defending their life, and liberty, acquiring, possessing, and protecting property, and of seeking and obtaining their safety and happiness.

SEC. 2. All political power is inherent in the people, and all free governments are founded in their authority, and instituted for their benefit; therefore they have an inalienable and indefeasible right to institute government, and to alter, reform, or change the same, when their safety, happiness, and the public good require it.

SEC. 3. All men have a natural and inalienable right to worship God according to the dictates of their own consciences; and the general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or to disturb any person in his religious worship or sentiments, and all persons demeaning themselves peaceably, as good members of this State, shall be equally under the protection of the laws; and no subordination or preference of any one sect or denomination to another shall ever be established by law; nor shall any religious test be ever required for any office of trust under this constitution.

SEC. 4. Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to abridge the liberty of speech or of the press.

SEC. 5. The people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures.

SEC. 6. The right of trial by jury shall remain inviolate ; and all prisoners shall be heard by self or counsel, at their own election ; and no person shall be held to answer a capital or otherwise infamous crime unless on presentment or indictment of a grand jury ; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor be compelled in any criminal case to be a witness against himself.

SEC. 7. All penalties and punishments shall be in proportion to the offence ; and all offences, before conviction, shall be bailable, except capital offences where the proof is evident or the presumption great. Excessive bail shall not be required.

SEC. 8. The writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion, or the public safety shall require it, and then only as provided by legislative enactment.

SEC. 9. Treason against this State shall consist in levying war against it, or adhering to its enemies or giving them aid and comfort.

SEC. 10. The general assembly shall pass no bill of attainder, ex post facto law, nor law impairing the obligation of contracts.

SEC. 11. The law shall not be suspended but by legislative authority.

SEC. 12. The right of petition by the people shall be preserved inviolate.

SEC. 13. The right of citizens to keep and bear arms for common defence shall not be questioned.

SEC. 14. Private property shall not be taken for public use without just compensation.

SEC. 15. No standing army shall be kept up in this State in time of peace, and the military shall at all times and in all places be in strict subordination to civil power.

SEC. 16. The enumeration of certain rights shall not be construed to impair or deny others retained by the people.

ARTICLE III.

The powers of government of the State of Deseret shall be divided into three distinct departments, viz: legislative, executive, and judicial.

ARTICLE IV.

Of the legislative.

SECTION 1. The legislative authority shall be vested in a general assembly, consisting of a senate and house of representatives, the members of which shall be elected by the people.

SEC. 2. The sessions of the general assembly shall be annual, until otherwise provided by legislative enactment; and the first session shall be as hereinafter provided.

SEC. 3. The members of the house of representatives shall be chosen biennially by the qualified electors of their respective districts, and

their term of office shall continue two years from the day of their election.

SEC. 4. Senators shall be chosen in the same manner as the representatives, and their term of office shall continue four years from the day of their election.

SEC. 5. No person shall be a member of the general assembly except he be a free, white male citizen of the United States, and an inhabitant of this State one year preceding the time of his election, and has, at his election, a residence in the district he may be chosen to represent.

SEC. 6. The general assembly shall have power to prescribe the number, and make an apportionment, of senators and representatives: *Provided*, The number of senators shall not be less than one-third, nor more than one-half of the representatives; and at its first session each house of the general assembly shall, respectively, be divided by lot, as equally as may be, into two classes; the seats of the representatives of the first class shall be vacated at the expiration of one year, and of the senators of the first class at the expiration of two years.

SEC. 7. Each house shall choose its own officers, and judge of the qualification, election, and return of its own members.

SEC. 8. A majority in each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalty as each house may provide.

SEC. 9. Each house shall have all powers necessary for a branch of the general assembly of a sovereign State.

SEC. 10. Each member of the general assembly shall be privileged from civil arrest during any session, and in going to and returning from the same.

SEC. 11. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 12. The members of the general assembly shall take an oath or affirmation to support the Constitution of the United States and of this State, which may be administered by each other, or by any person qualified to administer oaths.

SEC. 13. The veto power of the governor shall be allowed by the general assembly except on bills which, when reconsidered, shall be again passed by a majority of two-thirds; and any bill vetoed by the governor shall be returned within ten days, (Sundays excepted,) with his objections, otherwise it shall become a law, unless the general assembly by adjournment prevent its return.

SEC. 14. Every law passed by the general assembly shall take effect from and after its publication, unless otherwise provided at the time of its enactment.

SEC. 15. At the first election under this constitution, the voters of this State shall elect thirteen senators and twenty-six representatives, in the manner members are now elected to the legislative assembly of the Territory of Utah, and according to the apportionment made

by the legislative assembly during its eleventh annual session in 1861-'62. All subsequent elections shall be held and conducted as prescribed by law.

SEC. 16. The legislative power of the general assembly of this State shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and of this State.

SEC. 17. It shall be the duty of the general assembly to elect two senators to Congress, as prescribed in section 3, article 1, of the Constitution of the United States.

SEC. 18. The house of representatives shall have the sole power of impeachment, and the senate shall have the sole power to try impeachments. When the governor or lieutenant governor is tried under impeachment, the chief justice shall preside. No person shall be convicted under impeachment without the concurrence of two-thirds of the members present.

ARTICLE V.

Of the executive.

SECTION 1. The executive power shall be vested in a governor, whose term of office shall be four years, and until his successor is elected and qualified. A lieutenant governor shall be elected at the same time and for the same term.

SEC. 2. No person shall be eligible to the office of governor or lieutenant governor unless he has been a citizen of the United States six years, and a resident of this State four years next preceding his election.

SEC. 3. When the governor elect has received his certificate of election, he shall qualify for entering upon the duties of his office by taking an oath or affirmation to support the Constitution of the United States and of this State, and to faithfully discharge the duties of his office; said oath or affirmation may be administered by any person authorized to administer oaths.

SEC. 4. The governor shall be commander-in-chief of the naval and military forces of this State.

SEC. 5. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 6. He shall use all due diligence for the faithful execution of the laws.

SEC. 7. When any office shall from any cause become vacant, and no mode is prescribed by the constitution or laws for filling such vacancy, the governor shall have power to fill such vacancy by appointment, which shall expire when such vacancy shall be filled by due course of law.

SEC. 8. He shall also have power to convene the general assembly by proclamation, when, in his opinion, the interests of the State require it.

SEC. 9. He shall communicate by message to the general assembly

at every session the condition of the State, and recommend such measures as he in his wisdom shall deem expedient.

SEC. 10. In case of disagreement in the general assembly with regard to the time of adjournment, the governor shall have power to adjourn the session by proclamation.

SEC. 11. No person shall, while holding any lucrative office under the United States, or this State, execute the office of governor.

SEC. 12. The governor shall have power to grant reprieves and pardons, and commute punishments, except in cases of impeachment.

SEC. 13. There shall be a seal of this State, which shall be kept by the governor, and be used by him officially, and be called "Great Seal of the State of Deseret."

SEC. 14. All grants and commissions shall be "in the name of the State of Deseret," shall be sealed with the great seal of State, be signed by the governor, and countersigned by the secretary of state.

SEC. 15. A secretary of state, treasurer, auditor of public accounts, and attorney general shall be elected by the general assembly, and shall continue in office for the term of four years, and shall perform such duties as may be assigned them by law.

SEC. 16. In case of impeachment of the governor, his removal from office, death, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant governor until such disability shall cease or the vacancy be filled.

ARTICLE VI.

Of the judicial.

SECTION 1. The judicial power shall be vested in a supreme court, circuit courts, probate courts, and such other courts as the general assembly may, from time to time, establish, which shall have such jurisdiction and exercise such powers as may be prescribed by law.

SEC. 2. The supreme court shall consist of a chief justice and two associate justices, two of whom shall be a quorum to hold courts.

SEC. 3. The supreme judges shall be elected by the general assembly for the term of six years after the first election under this constitution. At said first election one shall be elected for two years, one for four years, and one for six years.

SEC. 4. The judges of the supreme court shall be conservators of the peace throughout the State, and shall exercise such other jurisdiction and appellate powers as shall be prescribed by law.

SEC. 5. The style of all process shall be "State of Deseret," and all criminal prosecutions shall be "in the name of the State of Deseret."

ARTICLE VII.

Of elections.

SECTION 1. All free, white, male citizens of the United States over twenty-one years of age, having a residence of six months in this State, shall be entitled to vote.

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, and while going to and returning therefrom.

SEC. 3. No elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

SEC. 4. No person in the military, naval, or marine service of the United States, by being stationed in any garrison, barrack, military or naval place or station within this State, shall be entitled to vote, unless otherwise provided for by law.

SEC. 5. The first general election under this constitution shall be held on the first Monday in March next, (1862,) for the presentation of this constitution, to be accepted or rejected by the electors, and for the election of a governor, lieutenant governor, representative to the Congress of the United States, and members of the general assembly, as provided for in this constitution. Said election shall be conducted in accordance with the existing laws of the Territory of Utah, and the returns made to the secretary or either of the assistant secretaries of the convention framing and adopting this constitution, who shall, so soon as the returns are received, and in the presence of the president or any three members of said convention, open and examine them, and determine whether a majority of votes are "for" or "against" this constitution; and if "for," furnish to each person having the highest number of votes for any State office or representative to Congress a certificate of his election.

SEC. 6. The first meeting of the general assembly shall be as directed by proclamation by the governor elect, and subsequent sessions shall be held as provided by law.

ARTICLE VIII.

Of the militia.

SEC. 1. The militia of this State shall be composed of all able-bodied male citizens between the ages of 18 and 45 years, except such as are or may hereafter be exempt by the laws of the United States or of this State, and shall be armed, equipped, and trained as the general assembly may provide by law.

SEC. 2. All commissioned officers of the militia shall be elected as the general assembly shall prescribe, and shall be commissioned by the governor of the State.

ARTICLE IX.

Miscellaneous provisions.

SEC. 1. In order that no inconvenience may arise in passing from a territorial to a State government, it is hereby declared that the present organization, laws, and everything pertaining to the territorial government of Utah shall remain in full force and virtue in law, until superseded by the action of the State government under the provisions of this constitution.

SEC. 2. All officers of this State shall continue in office until superseded by their successors.

SEC. 3. The officers created by virtue of this constitution shall take an oath or affirmation to support the Constitution of the United States and of this State, and to faithfully perform the duties of their office.

SEC. 4. The general assembly shall encourage education.

ARTICLE X.

Providing for amendments to this constitution.

If at any time the general assembly deem it necessary, and for the best interest of the State, that this constitution be revised, altered, or amended, they shall cause such proposed revisions, alterations, or amendments to be published in the same manner as provided for notices of elections, and submitted to the votes of the electors of the State at their next general election; and if two-thirds of the votes cast are in favor of such proposed revisions, alterations, or amendments, the same shall thereafter become parts of this constitution; otherwise, this constitution shall remain unaltered.

Done in convention, in Great Salt Lake City, by the unanimous vote of the delegates present, the twenty-second day of January, A. D. 1862. In witness whereof, we have hereunto subscribed our names this twenty-third day of the month and year above written.

DANIEL U. WELLS,
President of the Convention.

Delegates from Great Salt Lake county.—Abraham O. Smoot, Elias Smith, James Ferguson, Reuben Miller, Wilford Woodruff, Archibald Gardner, Albert Carrington, John Taylor.

Delegates from Davis county.—Lot Smith, Thomas Grove, William R. Smith, Christopher Layton, Samuel W. Richards.

Delegates from Weber county.—Aaron F. Farr, Lorin Farr, Chauncy W. West, Jonathan Browning, James McGaw, Crandell Dunn.

Delegates from Box-Elder county.—Lorenzo Snow, Jonathan C. Wright, Alfred Cordon.

Delegates from Cache county.—Ezra T. Benson, Peter Manghan, William B. Preston, William Hyde, Preston Thomas, William Manghan, Seth M. Blair.

Delegates from Summit county.—Thomas Rhoads, Henry W. Brizzee, John Reese.

Delegates from Tooele county.—Evan M. Greene, John Rowberry, Eli B. Kelsey.

Delegate from Shambiss county.—Lysander Gee.

Delegates from Cedar county.—Zerubabel Snow, William Price.

Delegates from Utah county.—Leonard E. Harrington, James W. Cummings, Albert K. Thurber, Lorenzo H. Hatch, Benjamin F. Johnson, Aaron Johnson, W. M. Wall.

Delegates from Juab county.—Timothy B. Foot, Israel Hoyt, Jonathan Midgley.

Delegates from San Pete county.—Orson Hyde, Frederick W. Cox, Matthew Caldwell, William S. Seely, Bernard Snow, Madison D. Hambleton.

Delegates from Millard county.—Thomas Callister, Thomas R. King, Levi Savage, jr.

Delegates from Beaver county.—William J. Cox, Edward N. Thompson, James H. Rollins.

Delegates from Iron county.—Hosea Stout, Silas S. Smith, Horace S. Eldredge.

Delegates from Washington county.—John M. Moody, William Crosby, George A. Smith.

Attest :

WILLIAM CLAYTON,
Secretary.



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